

1 JOHN B. SULLIVAN (State Bar No. 96742)  
2 REGINA J. MCCLENDON (State Bar No. 184669)  
rjm@severson.com  
3 JON D. IVES (State Bar No. 230582)  
jdi@severson.com  
4 SEVERSON & WERSON  
A Professional Corporation  
5 One Embarcadero Center, Suite 2600  
San Francisco, CA 94111  
Telephone: (415) 398-3344  
6 Facsimile: (415) 956-0439

7 Attorneys for Defendants  
8 SAXON MORTGAGE SERVICES,  
INC. and THE BANK OF NEW  
YORK, AS TRUSTEE  
9

10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA  
12

13 JAIME JUSTO, MANUEL  
14 VALLECILLOS, FRANCISCO  
DONGO, individually, as Class  
15 Representatives, and on behalf of all  
others similarly situated,

16 Plaintiffs,

17 vs.

18 INDYMAC BANCORP, INC., a  
Delaware corporation; QUALITY  
19 LOAN SERVICE CORPORATION, a  
California corporation; ONE WEST  
20 BANK, formerly BANKS Federal  
Bank, form unknown, AURORA LOAN  
21 SERVICES, INC., a Delaware  
corporation, THE BANK OF NEW  
22 YORK, as Successor Indenture Trustee  
under NovaStar Mortgage, form  
23 unknown, SAXON MORTGAGE  
SERVICES, INC., a Texas corporation;  
24 DAVID OWEN, individually; KEVIN  
R. MCCARTHY, individually;  
25 THOMAS J. HOLTHUS, individually;  
and, DOES 1 through 200, inclusive,

26 Defendants.  
27

Case No.: SACV09-1116 JVS (AGRx)

**STIPULATION FOR DISMISSAL OF  
DEFENDANTS SAXON MORTGAGE  
SERVICES, INC. AND THE BANK OF  
NEW YORK, AS TRUSTEE, WITH  
PREJUDICE**

[FED. R. CIV. P., RULE 41(A)]

1 Plaintiffs Jaime Justo, Manuel Vallecillos, and Francisco Dongo (“Plaintiffs”)  
2 and Defendants Saxon Mortgage Services, Inc. and The Bank of New York, as  
3 Trustee (collectively, “Defendants”) stipulate as follows:

4 1. Plaintiffs filed this putative class action against Defendants alleging  
5 various claims with respect to foreclosure activity.

6 2. On February 19, 2010, the Court issued an order granting Defendants’  
7 motions to dismiss with leave to amend as to plaintiffs’ fraud and negligent  
8 misrepresentation claims and without leave to amend as to all other claims.  
9 Following this ruling, Plaintiffs no longer wish to pursue their claims against  
10 Defendants and have agreed to dismiss their claims against Defendants with  
11 prejudice. No consideration, other than a waiver of attorneys’ fees and costs, is  
12 being provided by Defendants for this dismissal.

13 3. The Court has not certified any class in this case, and no class  
14 certification motion has been filed.

15 4. The dismissal of this case will not preclude putative class members’  
16 claims, if any. Defendants deny they have violated any applicable law with respect  
17 to Plaintiffs or any member of the putative class alleged by Plaintiffs.

18 5. Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure allows the  
19 parties to stipulate to the dismissal of an action at any time. Rule 23(e) does not  
20 limit the right to stipulate to dismissal of this putative class action because it only  
21 applies to certified classes, and no class has been certified in this matter. No notice  
22 is required to putative class members under Rule 23(e) since, as explained above,  
23 the settlement and dismissal does not bind them in any way.

24       ///

25       ///

26       ///

27       ///

28

1 Accordingly, pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil  
2 Procedure, Plaintiffs agree that the complaint shall be dismissed as to Defendants  
3 Saxon Mortgage Services, Inc. and The Bank of New York, as Trustee only, with  
4 prejudice with respect to the claims by Plaintiffs individually and without prejudice  
5 as to the claims by the putative, uncertified class.

6 IT IS SO STIPULATED.

7  
8 DATED: March 19, 2010

SEVERSON & WERSON  
A Professional Corporation

9  
10 By: /s/ *Regina J. McClendon*  
11 Regina J. McClendon

12 Attorneys for Defendants  
13 SAXON MORTGAGE SERVICES,  
14 INC. and THE BANK OF NEW YORK,  
15 AS TRUSTEE

16 I hereby attest that I have on file all  
17 holographic signatures for any  
18 signatures indicated by a "conformed"  
19 signature (/s/) within this e-filed  
20 document.

21 /s/ *Regina J. McClendon*  
22 Regina J. McClendon

23 DATED: March 19, 2010

ANDRADE & ASSOCIATES

24  
25 By: /s/ *Richard Andrade*  
26 Richard Andrade

27 Attorneys for Plaintiffs  
28 MANUEL VALLECILLOS and  
FRANCISCO DONGO

DATED: March 19, 2010

/s/ *Jaime Justo*  
Jaime Justo

Plaintiff in Pro Per